

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 MUR 6169) **CASE CLOSURE UNDER THE**
 TRIANGLE PRIDE PAC) **ENFORCEMENT PRIORITY**
) **SYSTEM**
)

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated _____

_____ are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6169 as a low-rated matter.

In this matter, the complainant, Jeff Timmer, Executive Director of the Republican Party of Michigan, alleges that a Michigan state political committee, the Triangle Pride PAC ("Committee"), which is a separate, segregated fund ("SSF") of the Triangle Action Fund, violated the Federal Election Campaign Act ("Act") when the Committee failed to register and report with the Federal Election Commission.

The complainant maintains that pursuant to 2 U.S.C. § 431(4)(B) and Advisory Opinions 2003-29 and 1982-46, the Committee (which is an SSF), irrespective of the amount of contributions it made, should be considered a political committee under the Act.¹ The complainant includes the Michigan state registration papers of the Committee to demonstrate that it self-reported as a state SSF.

¹ The complainant cites, in part, Advisory Opinion 2003-29, stating "Under 2 U.S.C. § 431(4)(B), a separate segregated fund is a political committee regardless of the amount of contributions or expenditures it makes" and Advisory Opinion 1982-46, stating "a separate segregated fund becomes a political committee under the Act regardless of the total amount of contributions it makes to federal candidates."

1 According to the complainant, the Committee is a SSF that triggered "political
2 committee" status, under 2 U S C § 431(4) and 11 C F R § 100 5(b), when it supported
3 several federal candidates. Specifically, the complainant alleges that on several occasions the
4 Committee contributed to federal campaigns, which totaled \$750 for the cycle.²

5 The complainant maintains that the Committee was required to file a Statement of
6 Organization with the Commission and subsequently file periodic disclosure reports.

7 The Committee responds that it was established under Michigan state law on behalf
8 of its sponsoring organization, Triangle Action Fund, which is a membership corporation
9 created pursuant to section 501(c)(4) of the Internal Revenue Code. Thus, the Committee
10 claims that it was subject to the limitations and prohibitions of state law. Therefore, the
11 Committee suggests that in order for it to have been required to register and file federal
12 disclosure reports it would have had to exceed the federal contribution and expenditure
13 threshold and have had the "major purpose" of engaging in Federal Campaign activity.

14 The Committee does not dispute that fact that it spent \$750 in federal election
15 campaign activity. On the other hand, it does question the applicability of AOs 2003-29 and
16 1982-46, for the proposition that any SSF contributing any amount of money in connection
17 with a federal election is automatically a federal political committee. The Committee asserts
18 that neither advisory opinion addressed the constitutionally mandated "major purpose test,"
19 in determining whether it had achieved federal political committee status.

20 In this case the Committee, as a state SSF, was not established pursuant to 2 U S C
21 § 441b(b)(2)(C). Thus, the Committee did not fall under the provisions of 2 U S C

² The contributions at issue include \$100 contribution to Peters for Congress, \$500 contribution to Schauer for Congress, and a \$150 contribution to Friends of Senator Carl Levin.

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1 § 431(4)(B), which defines the term "political committee" to mean any SSF established
2 under the provisions of 2 U S C § 441b(b) Accordingly, the Committee would only have
3 had to register and report to the Commission if it was found to be a political committee
4 pursuant to 2 U S C § 431(4)(A) Although the Committee's response centers on whether it
5 satisfied the "major purpose test,"³ this Office believes it is unnecessary to examine the
6 Committee's "major purpose," because the \$1,000 contribution and expenditure threshold
7 was not met Accordingly, this Office recommends that the Commission should exercise its
8 prosecutorial discretion and dismiss this matter *See Heckler v Chaney*, 470 U S 821
9 (1985)


10 **RECOMMENDATIONS**

11 The Office of General Counsel recommends that the Commission dismiss
12 MUR 6169, close the file, and approve the appropriate letters

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19 Thomasenia P Duncan
20 General Counsel

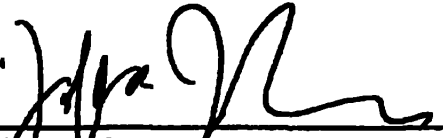
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Gregory R Baker
Special Counsel
Complaints Examination
& Legal Administration

³ The respondent listed the following factors, which it believes indicate that the major purpose of the Committee was not federal campaign activity the Committee did not issue public statements suggesting its major purpose is federal campaign activity, only 2 of the 65 candidates the Committee endorsed in 2008 were federal candidates, and in 2008, and the Committee spent \$750 of its total expenditures (\$11,641.95) on federal campaign activity



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration



Caitlin Cullitan
Intern

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